

INTERIM REVIEW
CONSTRUCTION OF HOV LANE
AND SOUNDWALLS ON 405 FROM
ROUTE 105 TO SR 90

MOU P0002196

REPORT NO.
07-CAL-G15

AUGUST 2008



Metro

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EXECUTIVE SUMMARY

At the request of the Project Manager, Randall Lamm, an interim review was completed by the Los Angeles County Metropolitan Transportation Authority (Metro) Management Audit Services (Management Audit) for the Transportation Improvement Program (TIP) call for project Memorandum of Understanding (MOU) P0002196. The interim review covers the period from inception of the MOU to January 31, 2007. This MOU is for State of California, Department of Transportation (Caltrans) to construct a High Occupancy Vehicle (HOV) Lane and Soundwalls on Interstate 405 from Route 105 to State Route 90. The estimated total project cost for the Construction Capital component of the MOU is \$44,615,000. The MOU is comprised of

- \$22,101,000 or 49.48 percent of Prop C 25 percent,
- \$2,154,000 or 4.82 percent of May 1989 Retrofit Soundwall (SW) Fund,
- \$9,930,000 or 22.23 percent of Congestion Mitigation and Air Quality (CMAQ),
- \$8,623,000 or 19.31 percent of Regional State Transportation Program (RSTP), and
- \$1,859,000 or 4.16 percent of State Transportation Improvement Program (STIP).

This review is based on the original MOU and amendments one through four which were in effect during the period of this review.

The total project cost of \$31,215,243 was incurred from inception of the MOU to January 31, 2007. We disallowed \$4,447 of the 15 percent surcharge related to claims, which were in noncompliance with the term of the MOU. Therefore, the allowable project cost is \$31,210,796 (\$31,215,243-\$4,447). The MOU was amended four times during the period under review. In each amendment the allocation percentage changed. Therefore, since these changes materially altered the fund allocation percentages, we calculated the project cost allocation separately based on the allocation percentages shown in each related amendment. Metro's share of the allowable project cost is \$18,210,584 for the period under review.

Caltrans was reimbursed \$18,010,847 and no retention was withheld. Therefore, the remaining balance on this MOU is \$4,090,153 (\$22,101,000 - \$18,010,847). During the period under review, Caltrans has under-run the project cost by \$199,737 (\$18,210,584 - \$18,010,847).

INTRODUCTION

Background

This MOU is between the Caltrans and Metro. The MOU covers cost to construct HOV lanes on Interstate 405 from Route 105 to Route 90. The project will alleviate congestion, create rides-sharing usage and reduce air pollution. The MOU commenced on December 20, 2001 and the amended lapsing date is June 30, 2009.

INTRODUCTION

Objectives

The review objectives were to:

- Determine the allowability, allocability and reasonableness of the incurred cost.
- Determine whether costs incurred and billed were allowable under relevant cost standards and in compliance with the specific general terms of the MOU and project management guidelines.
- Determine whether costs incurred were properly and accurately charged to the MOU, were reasonable in amount, and were supported by documented evidence.
- Determine whether costs were properly recorded for reimbursement purposes and that reimbursements were received by the Caltrans and the Metro's accounting records properly reflect these transactions.
- Determine whether invoices were submitted within the lapsing date and within the period for which the funds were programmed.

Scope

We reviewed the amount invoiced by the Caltrans for costs incurred in the performance of the MOU. The invoices were submitted between July 10, 2003 and February 8, 2007. We also reviewed the amounts paid.

We conducted this attestation review in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives. We used the cost principles contained in the Federal Acquisition Regulation (FAR) Subparts 30 and 31, and the MOU provisions to evaluate and analyze the incurred cost.

The cost claimed is the responsibility of Caltrans. Our responsibility is to express a conclusion based on the review. The review report is intended solely for the use of management and should not be used for any other purpose without first consulting Management Audit.

INTRODUCTION

Methodology

We selected invoices submitted by Caltrans and traced various costs included on the invoices to supporting documentation such as vendor's invoices. We reviewed the costs for allowability in accordance with applicable cost standards and compliance with the terms and conditions of the MOU. We also reviewed the accounting and grant records to determine if the amounts claimed for reimbursement, as represented by the invoices submitted by Caltrans, were actually paid.

RESULTS

Conclusion

We questioned \$4,447 of the total claimed cost of \$31,215,243 which was in noncompliance with a provision of the MOU. Since there were a number of amendments issued that materially altered the fund allocation percentage, we analyzed the project cost and compare to billing in accordance with the related amendment. Thus, Metro's share of the allowable project cost is \$18,210,584.

Caltrans was reimbursed \$18,010,847 of the \$22,101,000 programmed Prop C 25 funds and to date no retention was withheld. The remaining balance on this MOU is \$4,090,153 (\$22,101,000 - \$18,010,847). During the period under review, Caltrans has under-run the project cost by \$199,737.

Recommendation

We recommended that a close-out audit be performed to determine the final project cost.

Management Response

Metro Project Manager concurred with the results and recommendations of the audit. However, Caltrans Project manager thru the Division of Project Management disagreed with the audit findings

Caltrans' Response:

In Caltrans' letter dated July 16, 2008, Caltrans disagreed with the review findings which question \$34,096 in claimed costs. Caltrans response stated the following in part:

"Caltrans disagrees with the audit finding. The expenses are legitimate and appropriate. The contractor change order (CCO) is to pay for contract item that needs change during construction due to field conditions that is different than when the project was designed and the cost estimate was made.

RESULTS

The cost of \$34,096 was part of payment to the contractor to perform a CCO work that was beyond the scope of the contract. The work of drilling a 36" diameter concrete pile for the soundwall at a different location than shown on plan has affected the integrity of adjacent 60 years old deteriorated sewer line. The sewer line was originally constructed before the freeway was there and its location was not correctly recorded at that time. Upon inspection of the Resident Engineer, the sewer line replacement due to its broken condition is required to allow proper construction and ensure integrity of new concrete pile structure."

Auditor's Rejoinder:

We accept Caltrans' explanation in regards to the portion of the claim cost related to the differing site condition in the amount of \$29,649. However, we disagree with the 15 percent surcharge paid to the Victim Compensation and Government Claims Board. According to the Government Claims Program, the state agency is required to pay a 15 percent surcharge of an award when the Board approves the award on a claim filed against a state agency. The surcharge will not be assessed on claims that are rejected by the Board. We consider this surcharge to be a contingency cost which is not allowable under FAR 31.205-7, "Contingencies". FAR states "*Contingency means a possible future event or condition arising from presently known or unknown causes, the outcome of which is undeterminable at the present time .costs for contingencies are generally unallowable.*" If Caltrans had not lost the claim brought against them, the 15 percent surcharge would not have been assessed. The 15 percent surcharge is tied to an event which the outcome is unknown at the time of the claim. Therefore, we believe that the 15 percent surcharge is a contingency cost and \$4,447 of the claimed cost is not allowable as part of the project cost.



Ruthe Holden
Wed Aug 13 10:58:58 2008

Ruthe Holden
Chief Auditor
August 2008

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APPENDIX A

MOU.P0002196

PROJECT FUNDING AND EXPENDITURES BY AMENDMENTS

Description	Budgeted Costs	Percent Allocation	Total Project Cost Per PCS	Audited Project Cost
Amendment No. 1				
Construction Capital:				
May 1989 SW	\$ 2,154,000	7.04%	\$ 1,170,304	\$ 1,170,304
CMAQ	230,000	0.75%	124,677	124,677
RSTP	8,623,000	28.17%	4,682,880	4,682,880
STIP	1,859,000	6.07%	1,009,055	1,009,055
Prop C 25%	17,749,000	57.97%	9,636,725	9,636,725
Total	\$ 30,615,000	100.00%	\$ 16,623,641	\$ 16,623,641
Amendment No. 2				
Construction Capital:				
May 1989 SW	2,154,000	7.02%	794,579	794,267
CMAQ	230,000	0.75%	84,844	84,810
RSTP	8,623,000	28.12%	3,180,897	3,171,310
STIP	1,859,000	6.06%	685,758	685,488
Prop C 25%	17,801,000	58.05%	6,566,527	6,563,946
Total	\$ 30,667,000	100.00%	\$ 11,312,605	\$ 11,308,158
Amendment NO. 3				
Construction Capital:				
May 1989 SW	2,154,000	6.16%	173,901	173,901
CMAQ	230,000	0.66%	18,569	18,569
RSTP	8,623,000	24.66%	696,167	696,167
STIP	1,859,000	5.32%	150,084	150,084
Prop C 25%	22,101,000	63.21%	1,784,297	1,784,297
Total	\$ 34,967,000	100.00%	\$ 2,823,018	\$ 2,823,018
Amendment No. 4				
Construction Capital:				
May 1989 SW	2,154,000	4.82%	21,989	21,989
CMAQ	9,930,000	22.23%	101,370	101,370
RSTP	8,623,000	19.31%	88,027	88,027
STIP	1,859,000	4.16%	18,977	18,977
Prop C 25%	22,101,000	49.48%	225,616	225,616
Total	\$ 44,667,000	100.00%	\$ 455,979	\$ 455,979

APPENDIX B

MOU.P0002196
 SUMMARY OF AUDITED PROJECT COST
 AND BILLED COST

Description	Budgeted Costs	Total Project Cost Per PCS	Audited Project Cost	Payments	Over/ (under)
Construction Capital:					
May 1989 SW	\$ 2,154,000	\$ 2,160,773	\$ 2,160,461	n/a	
CMAQ	9,930,000	329,460	329,426	n/a	
RSTP	8,623,000	8,647,971	8,638,384	n/a	
STIP	1,859,000	1,863,874	1,863,604	n/a	
Prop C 25%	22,101,000	18,213,165	18,210,584	\$18,010,847	(199,737)
Total	\$44,667,000	\$31,215,243	\$31,210,796	\$18,010,847	

MOU balance remaining \$ 4,090,153